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Preparatory Commission for the International Criminal Court

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Addendum

Annex II

Draft first-year budget

Discussion paper proposed by the Coordinator concerning document PCNICC/2001/WGFYB/L.1

Part One
Proposed structure and administrative arrangements

I. Seat of the Court

1. The seat of the Court is to be established at The Hague in the Netherlands (Statute, art. 3, para. 1). The host State has secured a location for the permanent premises of the Court. Pending construction of those premises, interim arrangements are necessary. The Government of the Netherlands has announced that it will make available temporary premises as from the date of establishment of the Court. The interim premises are an existing building that offers enough room for start-up needs as well as expansion of the Court's activities within its walls. They are located opposite the International Tribunal for the Former Yugoslavia.[1] Detention facilities will be made available in a different location.

[1] See statement made by the Minister for Foreign Affairs of the Netherlands on 25 September 2001 at the eighth session of the Preparatory Commission (PCNICC/2001/INF/3).

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II. Premises requirements

2. During the start-up phase, the temporary premises should accommodate the following needs of the Court:

(a) The Presidency, consisting of the President and the First and Second Vice-Presidents (art. 38, para. 3), as well as its staff;

(b) Office space for an Appeals Division, a Trial Division and a Pre-Trial Division (art. 39, para. 1), i.e., an additional 15 judges and their staff;

(c) A courtroom that is available for the Appeals Chamber, the Trial Chambers and the Pre-Trial Chamber;

(d) The Office of the Prosecutor;

(e) The Registry;

(f) A detention facility at a separate location.

3. The experience of the International Tribunal for the Former Yugoslavia has shown that due account should be taken of the need to ensure a separation of the facilities belonging to the Office of the Prosecutor from the rest of the Court.[2] The particular requirements of the Court, however, will have to be taken into account. The temporary premises provided by the Government of the Netherlands would, if so required, allow for the facilities of the Office of the Prosecutor to be located separately from the rest of the Court within the premises to be made available.

4. Apart from the premises referred to above, appropriate premises will be required for the first meetings of the Assembly of States Parties (Statute, art. 112), the Bureau (art. 112, para. 3 (a)), the Inaugural Meeting of the Court, any special sessions of the Assembly (art. 112, para. 6), and meetings of the Committee on Budget and Finance of the Assembly, in accordance with the draft Financial Regulations and Rules.

III. Assembly of States Parties

5. According to the Statute, the Assembly can meet either at the seat of the Court or at the Headquarters of the United Nations (art. 112, para. 6). It is assumed that sessions of the Assembly in the first year could be held at the Headquarters of the United Nations in New York. The Government of the Netherlands has expressed its willingness to contribute financially to the initial meetings of the Assembly.[3]

6. The first session of the Assembly will be attended by representatives of at least 60 States Parties, who may be accompanied by alternates and advisers (art. 112, para. 1). The maximum size of the delegations of the States Parties is not regulated by the Statute. In view of the importance of the first session, it could be assumed that delegations will be composed of no less than three persons.[4]

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[2] See report of the Expert Group, A/54/634, para. 250.

[3] See PCNICC/2001/INF/3.

[4] In the General Assembly hall at United Nations Headquarters, each delegation is entitled to six seats.

7. In addition, States that have signed the Statute or the Final Act may attend the sessions of the Assembly in the capacity of observers (Statute, art. 112, para. 1). Currently, 139 States have signed the Statute and 144 States have signed the Final Act. The composition and size of the observer delegations are not regulated by the Statute and therefore could be discussed by the Preparatory Commission. Moreover, space is needed for other observers.

8. The official and working languages of the Assembly are those of the General Assembly of the United Nations (Statute, art. 112, para. 10). In regular sessions, the Assembly can meet only once a year. However, the Statute provides that special sessions can be convened when circumstances so require (art. 112, para. 6). The Assembly could meet in a special session to, inter alia, elect a Deputy Prosecutor (from a list of candidates provided by the Prosecutor (art. 42, para. 4)) and to approve staff regulations (art. 44, para. 3) to be prepared by the Registrar. The convening of such a special session would also entail administrative, organizational and financial implications. Any special session during the first year could also be convened at United Nations Headquarters in New York.

9. Appendix I to the draft financial regulations and rules foresees the establishment by the Assembly of States Parties of a Committee on Budget and Finance, bearing in mind article 112, paragraphs 2 (b) and (d) and 4, of the Rome Statute. The Committee will be composed of 12 members. It will meet at least once a year. This body could hold its meetings during the first year at United Nations Headquarters in New York.

IV. Bureau of the Assembly

10. According to the Statute, the Bureau of the Assembly shall meet as often as necessary, but at least once a year (art. 112, para. 3 (c)). In the first year, meetings of the Bureau could also be held at United Nations Headquarters in New York.

11. The Bureau will be composed of 21 members elected by the Assembly (ibid., para. 3 (a)). It is to be expected that in the course of the first year, the Bureau will meet several times to discuss organizational matters. The Bureau meetings will require relevant premises arrangements and will also entail travel and related expenses for judges, the Prosecutor and the Registrar. The Statute is silent on the matter of the official and working languages of the Bureau. The representative character of the Bureau (ibid., para. 3 (b)) as well as its composition need to be taken into account when assessing resources needed.

12. The Government of the Netherlands has also expressed its willingness to contribute financially to the initial meetings of the Bureau.[5]

V. Inaugural Meeting of the Court

13. Once elected, the 18 judges and the Prosecutor are required to make a solemn undertaking (Statute, art. 45). The meeting at which this takes place may be used for the election of the Presidency of the Court by the judges, who might also at the same meeting determine the membership of the Divisions and the Chambers. Thus,

[5] See PCNICC/2001/INF/3.

appropriate premises arrangements should be envisaged for the Inaugural Meeting of the Court.

14. The Inaugural Meeting will be held at The Hague. The Government of the Netherlands has expressed its commitment to fully finance the meeting.

15. The Inaugural Meeting will entail round-trip travel arrangements for the 18 judges and the Prosecutor.

Appendix

Priority guidelines for the preparation of a revised draft first-year budget for the International Criminal Court

Paper proposed by the Coordinator concerning document PCNICC/2001/WGFYB/L.1

General guidelines

- Rather than envisaging two scenarios (referral and non-referral), a third approach should be taken. A new draft for the first-year budget should provide for a stronger capacity for the Court and the Assembly of States Parties to respond to various challenges.

  It will be necessary to:

- Identify *core functions* before focusing on posts and organizational structures;
- Fill those functions at a *sufficiently senior level*, to create a solid basis for effective management of surges of recruitment dictated by circumstances; and to avoid, at the same time, top-heavy organization; therefore, it will be necessary to add to the senior level a junior-level workforce;
- Create the ability — financially, administratively and procedurally — to recruit *at short notice*.

Core functions

Office of the Prosecutor

In order to fulfil initial critical needs, including with regard to the role of the Prosecutor under article 15 of the Statute, the following tasks need to be taken into account:

- Preliminary inquiry/fact-finding, processing of information, analysis (legal, military and political) of information, admissibility proceedings, formal investigation, drafting indictments, hearings in a Pre-Trial Chamber, preliminary motions and appeals, and trial preparation. Trials do not seem as likely during the first year;
- It is imperative for the Office of the Prosecutor to have a separate media/ spokesperson function;
- Moreover, one must envisage recruitment of experts referred to in article 42 (9) of the Statute. Consideration must be given to whether there is a need for a core staff or recruitment as consultants for the first year.

Chambers/Registry

Critical requirements for the first year would include, for the President and two Vice-Presidents, a capacity to deal with a large workload of high-level external relations and communication (putting the Court on the world map), systems for the

operation of the Chambers, Appeals Chamber workload. It is imperative that there be a media/spokesperson/outreach function for the judiciary.

Other critical functions for the first year include:

- Legal advisory function section for the Registry, with capacity to deal with a large workload on operational-legal start-up matters (headquarters agreements, relocation-of-witnesses agreements, enforcement-of-sentences agreements, contracts, personnel matters, grants and donations, internal control procedures, etc.);
- Security function, with capacity to set up security as an overarching concept (information security systems, staff awareness, situation monitoring systems, evacuation protocols for staff on mission, liaison systems with other international organizations, liaison systems with host State, etc.);
- Court management function, with capacity to set up protocols for records and evidence management;
- Consideration of early establishment of appropriate systems to cover witness protection and victims' needs;
- Counsel function to set up system of legal aid, financial accountability, contacts with an international bar;
- Library and central registry functions;
- Administrative function: recruitment and procurement procedures, general services function to deal with building management, visa/protocol, travel, asset management, budget and finance function, and information technology and communications function, including electronic systems required for court proceedings. The possibility of outsourcing some of these functions may be considered;
- Particular consideration must be given to conference and language services needs. In addition to servicing in the languages of the Court, it must be kept in mind that the Court will require a high adaptability to all languages in use where its operations are conducted. From day one, translation needs may have to be met. This may also apply to the Office of the Prosecutor, which may require separate servicing. The possibility of sharing common services with other Hague-based international institutions may also be considered.

Other guidelines

The budget for the first year must further take into account ways to ensure confidentiality with regard to the specific utilization of certain resources which have a direct bearing on arrest orders, protection of witnesses and victims, etc.

Implications of the financial regulations which need to be considered include the following:

- Choice of currency;
- Financial period for the first budget;

- Rules on appropriation line and contingency mechanism will have an important impact on the need to foresee supplementary budget as well as provision for additional meetings of the Assembly of States Parties;

- Personnel costs should be net, not gross, since the draft regulations do not foresee a tax equalization fund.

A realistic approach concerning vacancy rates (see initial experience of ad hoc Tribunals) is required.

It will be necessary to consider whether resources for training should be envisaged in the first-year budget.

A balance must be struck between the cost-effectiveness of common services (which may include functions such as security, translation, etc.) and the need to ensure the independence of various judicial and prosecutorial functions. The early recruitment of a director of common services may prove crucial in the start-up phase.